

HOUSE BILL No. 1316

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-19-5; IC 36-7-13.

Synopsis: Community revitalization enhancement districts. Authorizes a municipality to designate a displacement corridor when a state or federal highway project displaces business enterprises located in the municipality. Authorizes a municipality that designates a displacement corridor to apply for the designation of a community revitalization enhancement district (CRED). Exempts a displaced business that relocates in a CRED from the restrictions on moving within Indiana that apply to taxpayers seeking a tax credit for certain investments in a CRED.

Effective: July 1, 2005.

Buck, Torr, Noe

January 13, 2005, read first time and referred to Committee on Local Government.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1316

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-19-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A taxpayer is not
3 entitled to claim the credit provided by this chapter to the extent that
4 the taxpayer substantially reduces or ceases its operations in Indiana in
5 order to relocate them within the district. Determinations under this
6 section shall be made by the department. The department shall adopt
7 a proposed order concerning a taxpayer's eligibility for the credit based
8 on subsection (b) and the following criteria:
9 (1) A site-specific economic activity, including sales, leasing,
10 service, manufacturing, production, storage of inventory, or any
11 activity involving permanent full-time or part-time employees,
12 shall be considered a business operation.
13 (2) With respect to an operation located outside the district
14 (referred to in this section as a "nondistrict operation"), any of the
15 following that occurs during the twelve (12) months before the
16 completion of the physical relocation of all or part of the activity
17 described in subdivision (1) from the nondistrict operation to the



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district as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a taxpayer that would otherwise be disqualified under subsection (a) is eligible for the credit provided by this chapter if the taxpayer meets at least one (1) of the following conditions:

(1) The taxpayer relocates all or part of its nondistrict operation for any of the following reasons:

(A) The lease on property necessary for the nondistrict operation has been involuntarily lost through no fault of the taxpayer.

(B) The space available at the location of the nondistrict operation cannot accommodate planned expansion needed by the taxpayer.

(C) The building for the nondistrict operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the nondistrict operation has been totally destroyed through no fault of the taxpayer.

(E) The renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the district, as certified by three (3) independent estimates.

(F) The taxpayer had existing operations in the district and the nondistrict operations relocated to the district are an expansion of the taxpayer's operations in the district.

A taxpayer is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the district. These costs must be certified by three (3)

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independent estimates.

(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nondistrict operation without the consent of the employees.

(3) The taxpayer's nondistrict operation is located in a displacement corridor designated under IC 36-7-13-21.

(c) The department shall cause to be delivered to the taxpayer and to any person who testified before the department in favor of disqualification of the taxpayer a copy of the department's proposed order. The taxpayer and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to appeal the proposed order of the department shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections to the director of the budget agency and the director of the department of commerce. A hearing panel composed of the commissioner of the department or the commissioner's designee, the director of the budget agency or the director's designee, and the director of the department of commerce or the director's designee shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the hearing panel a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the hearing panel. The hearing panel may hear additional evidence or remand the action to the department with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department may be appealed under ~~IC 33-3-5~~ **IC 33-26**.

(e) If no objections are filed, the department may adopt the proposed order without oral argument.

(f) A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years.

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SECTION 2. IC 36-7-13-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.1. (a) This section applies to a:

- (1) first class city; ~~or~~
- (2) second class city; **or**
- (3) municipality that designates an area within the municipality as a displacement corridor under section 21 of this chapter.**

(b) After approval by ordinance or resolution of the legislative body of a ~~city~~ **municipality** described in subsection (a), the executive of the ~~city~~ **municipality** may submit an application to an advisory commission on industrial development requesting that one (1) area within the city be designated as a district under section 12.1 of this chapter. ~~However,~~

(c) Except as provided in subsection (d), the total number of districts designated in a city under this chapter after June 30, 2003, (excluding districts designated before July 1, 2003) may not exceed one (1).

(d) A district designated in a first or second class city in conjunction with the city's designation of a displacement corridor under section 21 of this chapter is in addition to the designation of any other district in the city under this chapter.

SECTION 3. IC 36-7-13-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.1. (a) If the executive of a ~~city~~ **municipality** described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

- (1) That the redevelopment of the area in the district will:
 - (A) promote significant opportunities for the gainful employment of its citizens;
 - (B) attract a major new business enterprise to the area; or
 - (C) retain or expand a significant business enterprise within the area.
- (2) That there are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or ineffective utility services.
 - (C) Utility relocation requirements.

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- (D) Transportation or access problems.
- (E) Topographical obstacles to redevelopment.
- (F) Environmental contamination.
- (G) Lack of development or cessation of growth.
- (H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.
- (I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the ~~city~~ **municipality** may make expenditures for:

- (1) the acquisition of land;
- (2) interests in land;
- (3) site improvements;
- (4) infrastructure improvements;
- (5) buildings;
- (6) structures;
- (7) rehabilitation, renovation, and enlargement of buildings and structures;
- (8) machinery;
- (9) equipment;
- (10) furnishings;
- (11) facilities;
- (12) administration expenses associated with such a project;
- (13) operating expenses; or
- (14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the ~~city~~ **municipality** described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

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(f) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

SECTION 4. IC 36-7-13-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 21. (a) This section applies to any municipality.**

(b) The fiscal body of a municipality may designate an area within the municipality as a displacement corridor if the fiscal body makes the following findings:

(1) A state or federal highway construction, expansion, or renovation project within the municipality's boundaries has enlarged the highway right-of-way.

(2) The enlargement of the highway right-of-way has displaced business enterprises that were located in the municipality.

(3) The municipality has experienced:

(A) a significant loss of assessed valuation; and

(B) significant employment losses;

in the proposed displacement corridor.

(c) The boundaries of a displacement corridor designated under this section must be coextensive with the state or federal highway right-of-way located within the municipality.

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